

LEGISLATIVE COUNCIL BRIEF

Supplementary Medical Professions Ordinance
(Chapter 359)

**MEDICAL LABORATORY TECHNOLOGISTS
(SPECIAL EXEMPTION) REGULATION**

INTRODUCTION

The Secretary for Food and Health (“SFH”) made the Medical Laboratory Technologists (Special Exemption) Regulation (“the Regulation”) at **Annex A** under section 29(1A) of the Supplementary Medical Professions Ordinance (“the SMP Ordinance”) (Cap. 359).

JUSTIFICATION

2. Given the urgent need to carry out large-scale COVID-19 testing as early as possible in the shortest possible time to protect public health amidst the third wave epidemic, the Government requires a large number of testing personnel. However, after discussions with the medical laboratory sector, it is noted that Hong Kong does not have sufficient laboratory testing personnel with adequate training and experience to perform COVID-19 testing to meet the urgent need to implement the Universal Community Testing Programme (“UCTP”).

3. The Government considers it necessary to allow laboratory testing personnel who possess relevant testing experience from the Mainland to come to Hong Kong to assist in performing COVID-19 tests for a limited period of time so as to carry out the UCTP. The Government liaised with the National Health Commission to arrange members of the National accredited laboratory testing personnel who possess adequate training and experience on COVID-19 tests to come to Hong Kong to conduct tests. They only

engaged in COVID-19 related testing. Upon completion of UCTP, they have returned to the Mainland.

THE REGULATION

4. The Regulation would be valid for two months during the period from 8 August 2020 to 7 October 2020 (both dates inclusive).

5. The Regulation, at Annex A, is made under the SMP Ordinance to temporarily exempt (a) laboratory testing personnel who has obtained National accreditation from the registration requirements for medical laboratory testing in Hong Kong, and (b) companies from the requirement on employing laboratory testing personnel with local registration.

LEGISLATIVE TIMETABLE

6. The Regulation should be implemented as soon as possible so as to carry out the UCTP in the shortest possible time. The proposed subsidiary legislation has taken effect on 8 August 2020. The Regulation was gazetted on 7 August 2020 and would be tabled in the Legislative Council on 14 October 2020 for negative vetting.

IMPLICATIONS OF THE PROPOSAL

7. The Regulation is in conformity with the Basic Law, including the provisions concerning human rights. The Regulation will not affect the binding effect of existing provisions of the relevant ordinances and their subsidiary legislation. It has no financial, civil service, productivity, environmental, sustainability, economic, gender or family implications.

PUBLIC CONSULTATION

8. The Government met with the medical laboratory sector to enquire whether the existing manpower of medical laboratory technologists in Hong Kong could support the implementation of UCTP. It is noted that Hong Kong does not have sufficient laboratory testing personnel with adequate training

and experience to perform COVID-19 testing under UCTP in the shortest possible time.

PUBLICITY

9. A spokesman will be available to answer enquiries.

ENQUIRIES

10. Enquiries on the brief should be made to Mr Chris FUNG, Principal Assistant Secretary for Food and Health (Health), at 3509 8917.

Food and Health Bureau
7 October 2020

Medical Laboratory Technologists (Special Exemptions) Regulation

(Made by the Secretary for Food and Health under section 29(1A) of the Supplementary Medical Professions Ordinance (Cap. 359))

1. Commencement

This Regulation comes into operation on 8 August 2020.

2. Exemptions

- (1) A specified person is exempt from section 21(1) of the Ordinance in respect of the specified profession while the person is conducting specified tests for the Government.
- (2) A specified company is exempt from section 20 of the Ordinance in respect of the specified profession in relation to the employment of a specified person by the company to conduct specified tests for the Government.
- (3) In this section—

NHC (衞健委) means the National Health Commission of the People's Republic of China;

specified company (指明公司) means a company that—

- (a) is registered under the Companies Ordinance (Cap. 622) or under the Companies Ordinance (Cap. 32) as in force at the time of the registration; and
- (b) carries on the business of practising the specified profession;

specified person (指明人士) means a member of the National accredited laboratory testing personnel arranged by the NHC to conduct specified tests in Hong Kong for the Government;

specified profession (指明專業) means the profession of medical laboratory technologist, which is set out in item 1 of the Schedule to the Ordinance;

specified test (指明檢測) means a nucleic acid test for detecting the coronavirus disease 2019 (COVID-19), which is specified in item 8A of Schedule 1 to the Prevention and Control of Disease Ordinance (Cap. 599).

3. Expiry

This Regulation expires at midnight on 7 October 2020.



Secretary for Food and Health

7 Aug 2020

Explanatory Note

This Regulation exempts a specified person conducting COVID-19 nucleic acid tests for the Government from section 21(1) of the Supplementary Medical Professions Ordinance (Cap. 359) (*Ordinance*) in respect of the profession of medical laboratory technologist (*specified profession*). Under that section, a person who practises the specified profession without being registered in respect of that profession commits an offence.

2. The Regulation also exempts a specified company from section 20 of the Ordinance in respect of the specified profession for employing a specified person to conduct COVID-19 nucleic acid tests for the Government. Under section 20(4) of the Ordinance, if a company employs a person who has not been registered in respect of the specified profession to practise that profession, the company, its director and its manager each commits an offence.